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**IN THE
COURT OF APPEALS OF INDIANA**



TIMOTHY A. ANDERSON,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 48A05-0804-CR-191

APPEAL FROM THE MADISON COUNTY COURT
The Honorable David W. Hopper, Judge
Cause Nos. 48E01-0509-FD-433, 48E01-0512-FD-574

October 6, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Timothy A. Anderson appeals the revocation of his probation, arguing that there was insufficient evidence that he violated the terms of his probation. We affirm.

On November 29, 2006, Anderson entered plea agreements in two separate causes: 48E01-0509-FD-433 (“Cause 433”) and 48E01-0512-FD-574 (“Cause 574”). In each cause, he plead guilty to class A misdemeanor possession of marijuana and class D felony operating a vehicle while intoxicated and was sentenced to concurrent terms of twelve months for possession of marijuana and thirty-six months for driving while intoxicated. The sentence in Cause 574 was to be served consecutively to Cause 433. In Cause 433, the trial court suspended 728 days to probation, and in Cause 574, the trial court suspended 687 days to probation. The trial court explained the conditions of Anderson’s probation, and he signed the probation order.

Anderson was released from Madison County custody and immediately transferred to Howard County and incarcerated in an unrelated cause. Howard County released him on February 7, 2007. Anderson failed to appear at two hearings for probation violations and was consequently incarcerated from July 14-20, 2007, and November 19 through December 15, 2007. Appellant’s App. at 6, 104.

On January 4, 2008, in Cause 433, the State filed a second amended notice of probation violation alleging that Anderson committed the following violations:

- a) Failed to report timely to Probation Department;
- b) Failed to obtain G.E.D. and provide written verification to Probation Department;
- c) Failed to obtain substance abuse evaluation at treatment facility approved by Probation Department within 30 days of sentencing/release, comply with treatment recommendations, and provide written verification of successful completion of said program to the Probation Department;

- d) Failed to pay Court Cost[s];
- e) Failed to pay fine;
- f) Failed to pay [\$]200 Alcohol Countermeasure Fee;
- g) Failed to pay \$200 Drug Interdiction Fee;
- h) Failed to maintain employment and/or verify employment to the Probation Department;
- i) Failed to verify a photo ID with correct name, address and date of birth;
- j) Failed to attend DWI Victim Encounter Group as scheduled;
- k) Not to violate the laws of Indiana or the U.S. and failure to behave well in society: On/about 8/11/07, you are alleged to have committed the following new criminal offense(s): Public Intoxication, as filed in Anderson City Court ... ;
- l) Curfew Violation: On/About 8/11/07 at 11:10, you were at a place other than your residence and, therefore, in violation of your 12:00 to 6:00 a.m. curfew;
- m) Failed to report to probation upon release from jail as ordered by the Court at 7/20/07 hearing;
- n) Not to violate the laws of Indiana or the U.S. and failure to behave well in society: On/about 1/01/08, you are alleged to have committed the following new criminal offense(s): Possession of a Controlled Substance and Public Intoxication, as filed in Madison County Court

Id. at 37. The State also filed an amended violation of suspended sentence in Cause 574, alleging the same violations except (a), (d), (e), and (g). *Id.* at 146.

On March 18, 2008, the trial court held an evidentiary hearing. The trial court found that Anderson had committed all the violations except (a) and (n) in Cause 433 and found that he had committed the corresponding violations in Cause 574. The trial court revoked Anderson's probation in both causes.

On appeal, Anderson argues that the State failed to produce sufficient evidence that he violated the conditions of his probation. A probation revocation hearing is in the nature of a civil proceeding, and the State need only prove the alleged violation by a preponderance of the evidence. *Wilson v. State*, 708 N.E.2d 32, 34 (Ind. Ct. App. 1999). Moreover, violation

of a single condition of probation is sufficient to revoke probation. *Id.* As with other sufficiency questions, we do not reweigh the evidence or judge the credibility of witnesses when reviewing a probation revocation. *Id.* We look only to the evidence that supports the judgment and any reasonable inferences flowing therefrom. *Id.* “If there is substantial evidence of probative value to support the trial court’s conclusion that a defendant has violated any terms of probation, we will affirm its decision to revoke probation.” *Cox v. State*, 706 N.E.2d 547, 551 (Ind. 1999).

At the evidentiary hearing, Anderson’s probation officer testified that to the best of his knowledge Anderson failed to acquire his G.E.D., obtain a substance abuse evaluation or comply with treatment, pay the alcohol countermeasures fee, maintain or verify employment, provide accurate photo identification, or attend DWI victim encounter group. Anderson himself admits that he failed to obtain his G.E.D., a substance abuse evaluation, or an accurate photo identification, attend the DWI victim-encounter group, maintain employment, and pay the required court costs, fines and fees. His admissions are sufficient to establish that he committed these violations.¹

Anderson also argues that there is insufficient evidence that he committed public intoxication, committed a curfew violation, and that he intentionally, knowingly, or recklessly failed to comply with his financial obligations. We observe that we need not

¹ In essence, Anderson asks us to excuse him from his obligations because he had good intentions but his attempts to comply with the conditions of probation were thwarted in one way or another. This is not a sufficiency of the evidence argument, but rather an argument that the trial abused its discretion in revoking his probation. *See Sanders v. State*, 825 N.E.2d 952, 956 (Ind. Ct. App. 2005) (“[A] trial court’s decision to revoke probation is reviewed for an abuse of discretion.”). The trial court did not abuse its discretion in revoking Anderson’s probation. Anderson had several months in which to comply with his probation conditions, and therefore, his excuses for noncompliance are flimsy at best.

address these contentions because violation of a single condition of probation is sufficient to revoke probation. *Morgan v. State*, 691 N.E.2d 466, 468 n.3 (Ind. Ct. App. 1998). Nevertheless, his contentions are unavailing. They are merely requests to reweigh the evidence and judge witness credibility, which we must decline. *See Wilson*, 708 N.E.2d at 34. Therefore, we affirm.

Affirmed.

KIRSCH, J., and VAIDIK, J., concur.